

1 JOHN C. KIRKE, #175055
2 jkirke@donahue.com
3 KATHLEEN B. FRIEND, #214593
kfriend@donahue.com
3 DONAHUE FITZGERALD LLP
Attorneys at Law
4 1999 Harrison Street, 26th Floor
Oakland, California 94612-3520
5 Telephone: (510) 451-3300
Facsimile: (510) 451-1527

6 Attorneys for Third-Party Defendants
7 RAHI SYSTEMS, INC., PURE FUTURE
TECHNOLOGY, INC., MASOOD MINHAS AKA
8 MIKE MINHAS, NAUMAN KARAMAT AKA
NORMAN KARAMAT, KAROLINE BANZON,
9 NABIA UDDIN and KAELYN NGUYEN

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12

13 CISCO SYSTEMS, INC., a California
corporation, and CISCO TECHNOLOGY,
14 INC., a California corporation,

15 Plaintiffs,

16 v.

17 ZAHID "DONNY" HASSAN SHEIKH, an
individual; SHAHID SHEIKH, an
individual; ROYA SHEIKH a.k.a. ROYA
18 SADAGHIANI, an individual; KAMRAN
SHEIKH, an individual; IT DEVICES
19 ONLINE, INC., a California corporation;
PUREFUTURETECH, LLC , a California
limited liability company; and JESSICA
20 LITTLE a.k.a. JESSICA MCINTOSH, an
individual personally and dba MCINTOSH
21 NETWORKS,

22 Defendants.

23
24 AND RELATED CROSS-ACTION.
25

Case No. 4:18-cv-07602-YGR

**THIRD PARTY DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT, OR IN THE
ALTERNATIVE MOTION FOR PARTIAL
SUMMARY JUDGMENT**

Date: July 31, 2020
Time: 2:00 p.m.
Dept.: Ctrm. 1, 4th Floor
Judge: Hon. Yvonne Gonzalez Rogers

1 PLEASE TAKE NOTICE THAT Third Party Defendants Rahi Systems, Inc. ("Rahi");
 2 Pure Future Technology, Inc. ("PFT, Inc."); Masood Minhas a/k/a Mike Minhas ("Minhas");
 3 Nauman Karamat a/k/a Norman Karamat ("Karamat"); Karoline Banzon ("Banzon"); Nabia
 4 Uddin ("Uddin"); and Kaelyn Nguyen ("Nguyen") (collectively the "TPD") will and hereby do
 5 make their Motion for Summary Judgment or, in the alternative, Partial Summary Judgment. This
 6 motion will be heard on July 31, 2020 at 2:00 p.m. in Courtroom 1 of this Court, located at 1301
 7 Clay Street, Oakland, California..

8 Defendant and Third Party Plaintiff Advanced Digital Solutions International, Inc.'s
 9 ("ADSI") Third Party claim that the TPD must equitably indemnify it as to Plaintiffs Cisco
 10 Systems, Inc., and Cisco Technology, Inc.'s (collectively "Cisco" or "Plaintiff") Complaint
 11 alleging that ADSI wrongfully imported and sold counterfeit Cisco products. ADSI's claim is
 12 premised on the allegation that it is entitled to indemnity because the TPD allegedly conducted
 13 and carried out the counterfeiting scheme for the benefit of Rahi.

14 Issue 1. This motion is made pursuant to Federal Rule of Civil Procedure 56 on the
 15 grounds that there is no genuine issue of material fact as to ADSI's indemnity claim because
 16 ADSI has been unable to produce admissible evidence supporting its claims and has asserted the
 17 Fifth Amendment right against self-incrimination rather than provide evidence on which it has the
 18 burden of proof; and moreover that ample admissible evidence demonstrates that ADSI's claim is
 19 false.

20 Should the Court not wish to grant Summary Judgment to all of the TPD, the TPD's
 21 Motion alternatively asks the Court to grant partial summary judgment pursuant to Federal Rule
 22 of Civil Procedure 56 on the following grounds:

23 Issue 2. As to the claims against TPD Rahi on the grounds that there is no genuine
 24 issue of fact supporting ADSI's claims against Rahi because there ADSI has been unable to
 25 produce admissible evidence supporting its claims that Rahi individually, or through agreement
 26 with the other TPD caused ADSI to purchase and sell counterfeit Cisco products;

27 Issue 3. As to the claims against TPD PFT, Inc. on the grounds that there is no
 28 genuine issue of fact supporting ADSI's claims against Rahi because there ADSI has been unable

1 to produce admissible evidence supporting its claims that Rahi individually, or through agreement
 2 with the other TPD caused ADSI to purchase and sell counterfeit Cisco products;

3 **Issue 4.** As to the claims against TPD Minhas on the grounds that there is no
 4 genuine issue of fact supporting ADSI's claims against Rahi because there ADSI has been unable
 5 to produce admissible evidence supporting its claims that Rahi individually, or through agreement
 6 with the other TPD caused ADSI to purchase and sell counterfeit Cisco products;

7 **Issue 5.** As to the claims against TPD Karamat on the grounds that there is no
 8 genuine issue of fact supporting ADSI's claims against Rahi because there ADSI has been unable
 9 to produce admissible evidence supporting its claims that Rahi individually, or through agreement
 10 with the other TPD caused ADSI to purchase and sell counterfeit Cisco products;

11 **Issue 6.** As to the claims against TPD Banzon on the grounds that there is no
 12 genuine issue of fact supporting ADSI's claims against Rahi because there ADSI has been unable
 13 to produce admissible evidence supporting its claims that Rahi individually, or through agreement
 14 with the other TPD caused ADSI to purchase and sell counterfeit Cisco products;

15 **Issue 7.** As to the claims against TPD Uddin on the grounds that there is no genuine
 16 issue of fact supporting ADSI's claims against Rahi because there ADSI has been unable to
 17 produce admissible evidence supporting its claims that Rahi individually, or through agreement
 18 with the other TPD caused ADSI to purchase and sell counterfeit Cisco products;

19 **Issue 8.** As to the claims against TPD Nguyen on the grounds that there is no
 20 genuine issue of fact supporting ADSI's claims against Rahi because there ADSI has been unable
 21 to produce admissible evidence supporting its claims that Rahi individually, or through agreement
 22 with the other TPD caused ADSI to purchase and sell counterfeit Cisco products.

23

24

25

26

27

28

1 This motion will be supported by the accompanying Memorandum of Points and
2 Authorities and Separate Statement, the supporting Declarations of Kathleen B. Friend, Tarun
3 Raisoni, Minhas, Karamat, Banzon, Uddin, and Nguyen and the evidence offered therewith,
4 together with the Court's files and on such other and further evidence as the Court may consider.

5 Dated: May 28, 2020

DONAHUE FITZGERALD LLP

6

7

By:/s/ John C. Kirke

8

9

10

John C. Kirke
Attorneys for Third-Party Defendants
RAHI SYSTEMS, INC., MIKE MINHAS, PURE
FUTURE TECHNOLOGY, INC., NORMAN
KARAMAT, KAROLINE BANZON, NABIA
UDDIN and KAELYN NGUYEN

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28